

MINUTES
REGULAR MEETING OF BOARD OF LAND COMMISSIONERS
July 16, 2007, at 9:00 a.m.
Room 303 State Capitol Building
Helena, Montana

PRESENT: Governor Brian Schweitzer, Superintendent of Public Instruction Linda McCulloch, Attorney General Mike McGrath, and State Auditor John Morrison

Via Telephone: Secretary of State Brad Johnson

Ms. McCulloch moved for approval of the minutes from the June 18, 2007, meeting of the Board of Land Commissioners. Seconded by Mr. Morrison. Motion carried unanimously.

BUSINESS CONSIDERED:

Mary Sexton, DNRC Director, suggested the Board address the three Communitization Agreements this month as a package.

707-1 COMMUNITIZATION AGREEMENT APPROVAL (Klabzuba Oil & Gas Inc.)

This request is from Klabzuba Oil to communitize state-owned acreage in the shallow Eagle Formation in Hill County. It is a 50% communitized area, the parcel is 640 acres, the state owns half of that and will receive half of the communitization agreement royalties.

707-2 COMMUNITIZATION AGREEMENT APPROVAL (Continental Resources Inc.)

This request is from Continental Resources Inc. to communitize state-owned acreage in the Bakken Formation in Richland County. The department owns 320 acres of the 1,215.44 mineral acres in the spacing unit that will be communitized. The department's tract comprises 26.33% of the communitized area and will receive 3.42% of all oil production and 3.29% of all gas production.

707-3 COMMUNITIZATION AGREEMENT APPROVAL (Devon Resources Corporation)

This request is from Devon Energy Corporation to communitize state-owned acreage in the Eagle Sand Formation in Blaine County. This permanent spacing unit as a total of 640 acres the department has mineral ownership of 400 acres in the spacing unit that will be communitized. The department will receive 7.8125% of all gas production.

Ms. Sexton requested approval of the three communitization agreement requests.

Motion was made by Mr. Morrison to approve the three requests for communitization. Seconded by Mr. McGrath. Motion carried unanimously.

707-4 NON-METALLIFEROUS LEASE APPLICATION APPROVAL

Ms. Sexton said this is a non-metalliferous lease application for the mining of barite. There was an oral auction held and two companies bid for this area located in the Lubrecht Forest in Missoula County. The department reviewed the applications and recommended a rental fee of \$3.00 per acre. There is a

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potential for barite because there has been some historic activity. Barite is used for drilling fluid and also in the manufacture of paper products. There was a question about unpaid DEQ fines for other activities, those have been brought up-to-date and the advanced rental payment of \$1,920 has been paid. All of the requirements by the Montana Barite Company LLC have been met at this point. Ms. Sexton recommended the lease be issued to the company for the terms included within the packet.

Motion was made by Ms. McCulloch to approve the non-metalliferous lease application. Seconded by Mr. Morrison.

Governor Schweitzer said the \$3.00 lease on the surface acreage and then the State of Montana, if it is developed, would get what percent?

Ms. Sexton said the state would get 8%.

Governor Schweitzer asked that is established?

Ms. Sexton replied yes it is a royalty of 8% gross with a \$1,000 advance minimum royalty.

Governor Schweitzer said could someone tell me where else we have barite in Montana? Is this igneous-rock related?

Teresa Kinley, DNRC Minerals Management Bureau geologist, said the barite is in a vein occurrence in quartzite of pre-Cambrian age. Research has shown that it is likely fracture filling, there may be some replacement but it is pretty short contact with the rock.

A vote was taken on the motion to approve. Motion carried unanimously.

707-5 FOUR METALLIFEROUS LEASE APPLICATIONS APPROVAL

Ms. Sexton said these are four metalliferous lease applications from the Kennecott Exploration Company. They are all located in Missoula County south of Lubrecht in the Bearmouth area. The department has reviewed the applications and recommends a rental fee of \$3.00 per acre per year in the first year, \$1.00 per acre per year for the second and third years, \$2.50 per acre per year for the fourth and fifth years, and \$3.00 per acre per year thereafter. A royalty rate of 8% gross value and \$2,500 bonds are also recommended for each of these leases. The Bureau of Mines and Geology has advised that drilling in the area confirmed there are copper deposits. These will require the lessee to submit a plan of operation to the department for approval prior to any exploration or mining activity. The department owns the surface rights as well as the minerals. Ms. Sexton recommended approval of these leases with the attached stipulations.

Motion was made by Mr. McGrath to approve the leases. Seconded by Mr. Morrison. Motion carried unanimously.

707-6 HIDDEN BUGS SALVAGE TIMBER SALE APPROVAL

Ms. Sexton said this proposed timber sale is located northwest of Placid Lake in Missoula County. The estimated sale volume is 633 MBF with an estimated minimum bid value of \$87,500 at \$25/ton. The sale includes four harvest units on 108 acres. There is active pine beetle infestation and much of the timber is

dead or dying and susceptible to mountain pine beetle attack. All merchantable lodgepole would be harvested. This proposed sale is in the wildland urban interface and there is no old growth involved. Access is through county and private forest roads that DNRC has permanent easements across. The department would maintain and make road improvements of existing road. Approximately .54 mile of new road would be built and would be closed upon harvest completion. In addition, approximately .25 mile of old road would be abandoned. There was concern regarding gates being installed because this is grizzly bear habitat. There were osprey and heron issues brought up and there are stipulations of "no disturbance" on the harvest for nesting periods. There was also potential for lynx denning and five acres of potential denning habitat have been retained. All comments have been addressed through the MEPA analysis. Ms. Sexton requested the Board to direct the sale of the Hidden Bugs Salvage Timber Sale.

Motion was made by Ms. McCulloch to approve the proposed sale. Seconded by Mr. McGrath. Motion carried unanimously.

707-7 FWP ACQUISITION OF HOUSE AT FT. PECK

Ms. Sexton said this is a request from Fish Wildlife and Parks for the acquisition of a house. I would note that this is before the Board for approval before it has been approved by the Fish Wildlife and Parks Commission. We are doing this because of some timing issues in the closure of this house.

Larry Peterman, FWP Field Operations Chief, said we're here today to ask for concurrence in moving ahead with the purchase of a house at Ft. Peck. The reason we are bringing it before the Board before the Commission hears it is because the Commission has heard this proposal on June 25th and will take final action this Thursday at their meeting. We are in a situation where because of closing issues we need to bring this to the Board and get its approval contingent upon the Commission's final approval at their Thursday meeting. The situation is that we have a new hatchery at Ft. Peck, a large warm water hatchery. At all of our hatcheries we have a certain number of personnel there that do security duty. Security duty for the water supply, the plumbing, and the fish. When a person pulls security duty they are required to be on or very near the hatchery 24/7 for the period they are on duty. They work their normal eight-hour shift and then they have to be available on-call for the remainder of the period. At Ft. Peck Hatchery we have two people that do that and they rotate every other week being on security duty. In exchange for that we provide housing at our hatcheries for those people that do security duty. At the Ft. Peck Hatchery we are currently renting two units, one in Nashua and one in Ft. Peck. We looked at the cost of building hatchery housing there and it was prohibitive for that. This is a much cheaper alternative. We are looking at approximately an 1,100 square foot house for \$138,500 in Ft. Peck. We would purchase this, the personnel that are doing security duty would live at this residence, and they are within ½ mile of the hatchery. They will be in the vicinity of the hatchery and if we have a problem they can immediately respond. We will still be renting one house at the present time for the other person doing security duty.

Motion was made by Mr. McGrath to approve the acquisition of a house at Ft. Peck Hatchery. Seconded by Mr. Morrison.

Mr. McGrath what is the source of the revenue?

Mr. Peterman said the source of the revenue is license dollars from FWP's Capital Program. Currently the rental funds are coming from the warm water fish stamp. That money then will not be for rent, we will put that into the operations of the hatchery.

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Governor Schweitzer asked are we getting a good buy here? Its 1,100 square feet for \$138,000. Is it in the village of Ft. Peck?

Mr. Peterman replied it is in the village of Ft. Peck. It appraised at \$147,500 and it is being sold by a corporation. There was a federal employee that owned it however he is being transferred and the way the federal government operates, a corporation buys the house and if they can't turn it over immediately or in a very short time they discount it. So it was discounted from \$147,500 to \$138,500. The \$147,500 was the appraised value. We think it is a good deal.

Governor Schweitzer said then he's got to go how far to the hatchery?

Mr. Peterman said it is within ½ mile of the hatchery.

A vote was taken on the motion to approve the acquisition. Motion carried unanimously.

707-8 RIGHTS-OF-WAY APPLICATIONS
A. Rights-of-Way Applications for approval

Ms. Sexton said the first of our rights-of-way segments. The first are the traditional right-of-way applications. There are 23 historic electric utility applications, these are trespass lines being updated; three historic private road access easements; and one new electric utility from WAPA where overhead lines will be placed under an interstate highway to avoid overhead lines going over the roadway. This month there are #14303 through 14325 from Fergus Electric Cooperative for overhead electric distribution lines; #14393 from N Bar Ranch for a private access road to conduct farming and ranching activities; #14394 from James Merchant for a private access road to conduct farming and ranching activities; #14395 from US Dept of Energy, Western Area Power Administration (WAPA) for a 115 kV electric transmission line; #14396 from Elizabeth Maclay for a private access road to a single family residence. Ms. Sexton requested approval of all of the right-of-way applications.

Motion was made by Ms. McCulloch to approve the package. Seconded by Mr. McGrath. Motion carried unanimously.

B. Reciprocal Access Agreement

Ms. Sexton said this reciprocal access agreement with the SMR Properties LLC and is under our new policy. It is located in Gallatin County. With this agreement the state is gaining access to another 80 acres of state land, in the tributary area the state has 120 acres SMR has 140 acres. SMR will be paying all of the share of road construction costs. Because there are two different trusts involved there will be a payment to SMR from the State Normal School for a reciprocal easement to benefit the School, I believe this is the 80 acres they own. The construction costs will be paid by SMR, a net value of \$10,000, to the School of Mines. For any development that occurs on the SMR property there will be the 1% conveyance fee charged. It is applicable to the cooperator in Section 15. We do obtain walk-in access to 80 acres of state land additionally to what the state already has. We are waiving the state's share of the road construction. Ms. Sexton recommended approval of the reciprocal access agreement with SMR Properties.

Motion was made by Mr. Morrison to approve the reciprocal access agreement. Seconded by Ms. McCulloch. Motion carried unanimously.

Motion to adjourn was made by Mr. McGrath. Seconded by Ms. McCulloch.